

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

TEVA BRANDED PHARMACEUTICAL	.	
PRODUCTS R&D, INC., et al.,	.	
	.	
Plaintiffs,	.	Case No. 24-cv-00909
	.	
vs.	.	Newark, New Jersey
	.	August 5, 2024
CIPLA USA, INC., et al.,	.	
	.	
Defendants,	.	
	.	
And related actions.	.	

TRANSCRIPT OF RULE 16 HEARING
BEFORE THE HONORABLE MICHAEL A. HAMMER
UNITED STATES MAGISTRATE JUDGE

APPEARANCES (the parties appeared via video conference):

For the Plaintiffs: CHRISTINE CLARK, ESQ.
Walsh Pizzi O'Reilly Falanga LLP
Three Gateway Center
100 Mulberry Street, 15th Floor
Newark, NJ 07012
(973) 757-1100
Cclark@walsh.law

HECTOR DANIEL RUIZ, ESQ.
Walsh Pizzi O'Reilly Falanga LLP
Three Gateway Center
100 Mulberry Street, 15th Floor
Newark, NJ 07102
(973) 757-1100
hruiz@walsh.law

Audio Operator:

Transcription Service: KING TRANSCRIPTION SERVICES, LLC
3 South Corporate Drive, Suite 203
Riverdale, NJ 07457
(973) 237-6080

Proceedings recorded by electronic sound recording; transcript
produced by transcription service.

1 (APPEARANCES continued)

2 For the Plaintiffs: ELISE M. BAUMGARTEN, ESQ.
Williams & Connolly LLP
3 680 Maine Avenue SW
Washington, DC 20024
4 (202) 434-5894
Ebaumgarten@wc.com

5 BEN PICOZZI, ESQ.
6 Williams & Connolly LLP
680 Maine Avenue SW
7 Washington, DC 20024
(202) 434-5266
8 Bpicozzi@wc.com

9 For the Defendants: LOLY G. TOR, ESQ.
10 K&L Gates, LLP
One Newark Center
11 Newark, NJ 07102
(973) 848-4026
12 Loly.tor@klgates.com

13 ANIL PATEL, ESQ.
K&L Gates, LLP
14 599 Lexington Avenue
New York, New York 10022
15 (713) 815-7304
Anil.Patel@klgates.com

16 HAROLD STOREY, ESQ.
17 K&L Gates, LLP
925 Fourth Avenue, Suite 2900
18 Seattle, Washington 98104
(206) 370-7637
19 Harold.storey@klgates.com

20 ELIZABETH WEISKOPF, ESQ.
K&L Gates, LLP
21 925 Fourth Avenue, Suite 2900
Seattle, Washington 98104
22 (206) 370-7964
Elizabeth.Weiskopf@klgates.com

23

24

25

1 (Commencement of proceedings)

2

3 THE COURT: All right. Good afternoon, everyone.
4 This is Judge Hammer.

5 We're on the record in Teva Branded Pharmaceutical
6 Products, et al., versus Cipla, Civil Nos. 24-909,
7 consolidated with 24-5856 and 24-7162 for the Rule 16
8 scheduling conference.

9 Can I have appearances, please, beginning with
10 Teva's counsel.

11 MR. RUIZ: Sure, Your Honor. Good afternoon. This
12 is Hector Ruiz with the Walsh Pizzi law firm.

13 And with me, I have Christine Clark from the same
14 firm.

15 Also with me, I have my co-counsel from Williams &
16 Connolly, Elise Baumgarten and Ben Picozzi.

17 THE COURT: All right. Thank you.

18 And then how about for Cipla?

19 MS. TOR: Good afternoon, Judge. This is Loly Tor
20 from K&L Gates. I'm also joined with Anil Patel, Harold
21 Storey, and Elizabeth Weiskopf, all from K&L Gates.

22 THE COURT: All right. Thank you.

23 All right. So I reviewed the complaint and the
24 joint discovery plan. Not anything particularly
25 controversial in the joint discovery plan. I was happy to

1 see nothing by way of any significant disputes, which is
2 always reassuring.

3 One issue I did want to raise. So as you may or
4 may not know from other litigation, Judge Chesler's policies
5 for Hatch-Waxman Act cases is that the final pretrial order
6 be filed -- in completed form, be filed not less than six
7 months before the end of the 30-month stay. And pretrial
8 motions, including any summary judgment motions filed 30 days
9 after entry of the final pretrial order.

10 So as great a job as you folks did in the joint
11 proposed schedule, the one concern I wanted to raise is we're
12 going to, then, obviously be doing the final pretrial
13 conference by January 5, which means, of course, the final
14 pretrial order -- or the parties' joint submission, I'd want
15 that a week before the final pretrial conference.

16 So what we're looking at is final pretrial
17 conference not later than January 5, 2026, which means you
18 folks would have to get the final pretrial order to me at
19 least a week before that.

20 So I wanted to raise that because, first, that
21 means, then, the pretrial conference is going to have to be
22 held earlier than the parties had designated, which is
23 certainly doable.

24 But I wanted to raise the question as to whether
25 the -- and the joint pretrial order submitted earlier than

1 the January 21 date that you folks have by almost a month,
2 really.

3 Does that affect -- knowing that, does that affect
4 any of the dates preceding? For example, the close of expert
5 discovery.

6 The Daubert briefing is all fine.

7 I just want to make sure that we account for all of
8 that with regard to putting together the final pretrial order
9 because I understand that preparing the final pretrial order
10 is a fair amount of work.

11 So I wanted to raise that because what we're going
12 to do is -- and we're planning well ahead but it's important
13 to do that, given the 30-month stay, but what we're looking
14 at doing is probably the final pretrial conference -- or
15 enter the final pretrial order and, therefore, doing the
16 final pretrial conference not later than Monday, January 5,
17 2026.

18 MS. BAUMGARTEN: Yes, Your Honor. It's Elise --
19 sorry.

20 THE COURT: No, no, no. I'm sorry. You go ahead.

21 MS. BAUMGARTEN: Oh, Elise Baumgarten on behalf of
22 plaintiff.

23 I mean, we're happy to take that back and kind of
24 come up with some new proposed dates along with Cipla, see if
25 we can work something out.

1 I think we may want to push back when the pretrial
2 order is due a little bit earlier simply so, you know, I am
3 not torturing our poor teams with having it due right after
4 Christmas.

5 THE COURT: I agree.

6 MS. BAUMGARTEN: I wonder if there's a way we can
7 work with Cipla to either, you know, fold in Daubert briefing
8 at another time or push those dates up a little earlier just
9 to make all of that work.

10 I --

11 (Simultaneous conversation)

12 THE COURT: Yeah, that's not bad idea, Elise.

13 MS. BAUMGARTEN: Yeah.

14 THE COURT: Right. That's not a bad idea because
15 realistically per Judge Chesler's policies, if you want to
16 sort of just juggle work burdens, the pretrial motions, which
17 would certainly include Daubert, wouldn't be due for another
18 almost two months.

19 MS. BAUMGARTEN: Okay.

20 THE COURT: Because those would be due 30 days
21 after entry of the final pretrial order.

22 So those would be due by February 5, 2026.

23 MS. BAUMGARTEN: Okay.

24 THE COURT: So it may be -- and, again, I'll
25 certainly hold off on entering the scheduling order if the

1 parties agree that it makes sense with this information to go
2 back and work on the dates a little bit. I'm happy to do
3 that.

4 But at least that's an option if the parties want
5 to have at it that way. So, like you said, you're not making
6 everybody's lives unnecessarily difficult, you know, during
7 the holidays.

8 MS. BAUMGARTEN: And we can work on that with Cipla
9 and hopefully later this week propose something to you.

10 THE COURT: Yeah, I don't know, Ms. Tor, Mr. Patel,
11 if Cipla has any thoughts on this? Do you want to go back
12 and take another stab at it with Teva's counsel?

13 MR. PATEL: Good afternoon, Your Honor. This is
14 Anil Patel for Cipla.

15 You know, we're happy to work with Teva's counsel
16 to propose dates, maybe squeeze the schedule a little bit. I
17 think -- you know, thinking out loud, the key is going to be
18 the time we have between close of expert discovery and when
19 the pretrial brief is due because both sides would want to
20 incorporate, you know, expert discovery information into the
21 pretrial brief.

22 THE COURT: Sure.

23 MR. PATEL: So but we can work with Teva's counsel
24 to kind of squeeze the schedule enough that we can get the
25 pretrial order due by -- or submitted by January 5th.

1 THE COURT: All right. That's fine.

2 I really did not see much else in the joint
3 discovery plan or really anything else that caused me
4 concern.

5 Are there other issues that the parties think we
6 should discuss today? If so, I'm happy to do so.

7 MS. BAUMGARTEN: Nothing on behalf of plaintiffs.

8 MR. PATEL: And on behalf of Cipla, we agree,
9 Your Honor, that we were able to work with Teva's counsel to
10 kind of amicably resolve all disputes.

11 The only thing I would like to point out from
12 Cipla's behalf is, you know, tentatively -- not tentatively,
13 but the parties have agreed to 10 fact depositions per side.

14 THE COURT: Right. With each 30(b)(6) counting as
15 one; right?

16 MR. PATEL: That's correct.

17 And we have allowed for the possibility that more
18 than 10 fact depositions, if they're necessary, the parties
19 will confer in good faith.

20 And the reason from Cipla's side we've done so is
21 because currently there are 16 patents asserted. There are
22 11 different inventors. So if we were to depose just the
23 inventors alone, we would exceed 10.

24 But the idea here is we don't have the facts in
25 front of us to bring this to you now. We don't think it's --

1 (Simultaneous conversation)

2 THE COURT: Right.

3 MR. PATEL: -- yet, just to be clear.

4 But we just do want to highlight that, you know.

5 It could be possible, at least from Cipla's side -- maybe
6 from Teva's side also -- that more than 10 fact depositions
7 are necessary.

8 But we'll see how the case pans out. We'll see how
9 the case is narrowed in terms of number of patents and claims
10 before we bring anything to you.

11 THE COURT: Right. Okay. Fair enough.

12 Yeah, I mean, you know, we've all been doing this
13 long enough to see that -- to know that sometimes in
14 litigation, the patents-in-suit might shrink or, I suppose,
15 expand, although generally they don't expand, which could
16 affect it. So I understand.

17 We'll hold that as sort of an open item. We'll go
18 with 10 per side now under Rule 30. And if we need to
19 address that going forward, we certainly can and will do so.

20 Anything other issues or concerns?

21 MR. PATEL: Nothing else from Cipla.

22 THE COURT: All right.

23 Anything else for Teva?

24 MS. BAUMGARTEN: Nothing, Your Honor. Thank you.

25 THE COURT: All right, folks.

1 I'll wait to see what you folks have. Why don't we
2 say within week? Is that fair?

3 MS. BAUMGARTEN: Yes, Your Honor.

4 THE COURT: All right.

5 MR. PATEL: That's fine for Cipla as well. Thank
6 you.

7 THE COURT: All right, folks. Thank you very much.
8 Have a great afternoon.

9 UNIDENTIFIED SPEAKERS: Thank you.

10 (Conclusion of proceedings)

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Certification

I, SARA L. KERN, Transcriptionist, do hereby certify that the 11 pages contained herein constitute a full, true, and accurate transcript from the official electronic recording of the proceedings had in the above-entitled matter; that research was performed on the spelling of proper names and utilizing the information provided, but that in many cases the spellings were educated guesses; that the transcript was prepared by me or under my direction and was done to the best of my skill and ability.

I further certify that I am in no way related to any of the parties hereto nor am I in any way interested in the outcome hereof.

s/ *Sara L. Kern*

25th of November, 2024

Signature of Approved Transcriber

Date

Sara L. Kern, CET**D-338
King Transcription Services, LLC
3 South Corporate Drive, Suite 203
Riverdale, NJ 07457
(973) 237-6080